

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



August 23, 2000

TO: ALL PARTIES OF RECORD IN INVESTIGATION 00-08-002

Decision 00-08-037 is being mailed without the Dissent of Commissioner Wood and President Lynch. The Dissent will be mailed separately.

Very truly yours,

/s/ LYNN T. CAREW (by ang)
Lynn T. Carew, Chief
Administrative Law Judge

LTC:abw

Attachment

Decision 00-08-037 August 21, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation into the
Functioning of the Wholesale Electric Market and
Associated Impact on Retail Rates.

Investigation 00-08-002
(Filed August 3, 2000)

**OPINION MODIFYING DECISION (D.) 00-06-034
AND D.00-08-021 TO ADOPT A BILL STABILIZATION PLAN FOR
SAN DIEGO GAS & ELECTRIC COMPANY**

Summary

On August 3, 2000, we issued Decision (D.) 00-08-021. After reconsidering the exigencies of the soaring electric rates in San Diego, we adopt a bill stabilization plan to extend through December 31, 2001 and book any revenue shortfalls to the Transition Cost Balancing Account (TCBA) for future collection of these costs. As discussed below, we defer the ultimate decision as to the duration of the bill cap pending hearings. The bill stabilization plan will ensure that the approximately 70 percent of all residential customers, those who consume 500 kWh or less, will pay no more than \$68 per month for electricity through the end of January 2001. The rate for these customers will then increase to \$75 per month through the end of December 2001. The plan will also ensure that the approximately 70% of all commercial customers, which consume 1,500 kWh or less, will pay no more than \$220 per month and school districts not covered by the small commercial customer class through the end of January 2001.

The rate for these customers will then increase to \$240 per month through the end of December 2001.

However, we intend to allow for further adjustment of the kWh caps, retroactive to June 1, 2000, to ensure that customers in hotter inland regions have an appropriate level of usage cap and medium sized commercial customers are provided relief. Finally, we are directing SDG&E to implement the residential bill caps in a prorated manner so that low income users of lesser amounts of energy also obtain the benefits of capped prices.

The program preserves incentives to conserve electricity by requiring all customers who consume energy in excess of these amounts to pay the market rate for this additional consumption. Thus, the bill stabilization plan proposed here protects San Diego Gas & Electric Company's (SDG&E) customers from the gyrations of the current market, avoids a rate freeze, and encourages energy conservation. Finally, the bill stabilization plan requires SDG&E to file comments addressing the implementation of a Levelized Payment Plan (LPP) for all customers on an "opt out" basis as well as the plan's true-up. In the meantime, we direct that SDG&E continue its aggressive marketing efforts of the LPP.

In doing so, we recognize the directive of Governor Davis to stabilize bills and the urgency of the situation in San Diego. We therefore modify D.00-08-021 and D.00-06-034, and establish a bill stabilization plan for SDG&E. We will explore other options, as appropriate.

Background

In D.00-08-021, we considered and rejected a rate freeze proposed by the Utility Consumers' Action Network (UCAN). We recognized that wholesale electric markets are not workably competitive and issued an Order Instituting

Investigation (I.) 00-08-002 to begin an investigation to consider the impact of the wholesale electric market on retail rates in SDG&E's service territory. As we explained in that decision, ratepayers in the service territories of Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (Edison) are shielded from increases in energy prices (both commodity and ancillary services) because these utilities' electric rates remain frozen. SDG&E, however, ended its rate freeze on July 1, 1999 (D.99-05-051).

In D.00-06-034, we determined that consumers must be aware of the price signals provided by the market and rejected PG&E's rate capping proposals. The Commission agreed with TURN that balanced payment plans, which each utility already has in place, offer a bill smoothing effect for residential customers and still allow these customers to be exposed to price signals.

Discussion

On June 29, 2000, the Independent System Operator (ISO) Board of Governors reduced price caps in the ISO real-time ancillary services, and inter-zonal congestion markets from \$750 per megawatt¹ (MW) to \$500/MW, effective July 1, 2000 through October 15, 2000. On August 1, the price caps were reduced to \$250/MW. The ISO has identified several Stage 1 and Stage 2 emergencies thus far this summer. Under California's Electrical Emergency Plan, a Stage 2 emergency is defined as a period when the electric reserve margin (i.e., backup generating capacity) drops below five percent but is above 1.5% of customer demand. A Stage 1 emergency exists when power reserves fall below 7%. High temperatures in the West have limited the amount of electricity that California

¹ In the ancillary services market, there are price caps for both capacity (megawatt) and imbalance energy (megawatt-hour). The same cap applies to both capacity and imbalance energy.

can import and have caused periodic drops in the state's electric reserves. Electricity demand has surpassed 44,000 MW on certain days.

Increased demand both in California and across the western United States, particularly when high temperatures exist in multiple regions, combined with relatively flat supply over the past decade, and the concentration of in-state generation in a small number of companies, has provided substantial market power to in-state generation owners, and resulted in soaring wholesale prices both in California and across the western United States. Given the high costs of energy thus far this summer, we remain troubled about the impacts of high-energy costs on the ratepayers in SDG&E's service territory.

On August 9, 2000, Governor Davis requested that this Commission "reduce average residential bills from the current level of approximately \$120 per month to the mid-60s range."² The Governor in his radio remarks stated that this would be essentially the average payment over the next two years, depending on how long the PUC decides to extend this bill stabilization plan. We fully intend to move ahead quickly with the investigation ordered in I.00-08-021; however, nothing can be resolved in that investigation in time to grant San Diegans the relief on their electric bills that is requested now by the Governor. To ensure the relief we grant is meaningful, we will do what we can today and fill in details retroactive to June 1 as the investigation progresses.

In D.99-05-051, the Commission adopted a settlement regarding the end of SDG&E's rate freeze. The settlement allowed SDG&E to cap its residential, small commercial and lighting customer rates at levels not to exceed 112.5% of frozen electric rate levels "on a monthly average basis" for the months of July, August,

² PR00:201 Office of the Governor August 9, 2000.

and September 1999. The settlement also provided that SDG&E would not propose a “similar” rate cap for the year 2000 in this proceeding.

We recognize that the Commission only recently rejected price or rate caps after the rate freeze (other than the interim rate caps adopted for SDG&E last summer) and in D.00-08-021 determined that the specific limited rate freeze proposal of UCAN required further study and hearings. We continue to believe that a rate freeze makes little sense and could result in delayed and increased costs to consumers. We deem today’s action an interim bill ceiling to stabilize San Diego bills while we proceed with our investigation, including hearings.

Nevertheless, we remain very concerned regarding the impact of high-energy costs on SDG&E’s ratepayers. Therefore, in light of the Governor’s request, we will modify D.99-09-051, D.00-06-034, and D.00-08-021 to adopt a bill stabilization plan – not a rate freeze – to provide further bill protection beyond that adopted in D.00-08-021. This plan should remain in effect until December 31, 2001 but will be reevaluated and possibly extended before that time.

As an alternative to a rate freeze, we propose a bill stabilization plan that consists of the following elements:

SDG&E will cap residential bills so that a customer consuming 500 kWh of electricity in a month will receive an electric bill not to exceed \$68 until the end of January 2001. The cap in residential bills will then step up to \$75 until the end of December 2001. All residential customers consuming electricity at amounts in excess of 500 kWh per month will face market rates for all consumption above 500 kWh.

In implementing this cap via tariffs, SDG&E shall propose a proration mechanism on prices in reaching the 500 kWh cap so that those consumers using lesser amounts of energy also get the benefit of the capped prices. In instituting this bill cap it is our intent for example, that a customer using 200 kWh to pay the

same per kWh charge as a customer who uses 500 kWh. We wish to avoid the perverse result that such a consumer have a \$50 bill while the larger consumer gets capped at \$68.

We are also committed to ensure that inland customers of SDG&E, whose dependence on air conditioning is greater, have a kWh cap which is not punitive. What we adopt today is based on average demographic data (including coastal regions where there is no air conditioning load) that does not differentiate between this distinct regional load profile. Therefore, we direct SDG&E to promptly file a petition to modify today's decision to adjust the residential cap to reflect demographic data by region in order to arrive at a fair & equitable cap for SDG&E's inland customers. We direct SDG&E to file with its petition information based on zip code locations and other temperature zone information with usage profiles so that we may adjust the 500 kWh cap as necessary, retroactive to June 1, 2000.

SDG&E will cap commercial bills so that a commercial customer consuming 1500 kWh per month will receive an electric bill not to exceed \$220. All commercial customers consuming electricity at amounts in excess of 1500 kWh will face market rates for all consumption above 1500 kWh.

We remain concerned that this cap on commercial bills may not provide relief to the medium-sized commercial customers. It is our intent that it do so. Therefore, we instruct SDG&E in a petition to modify to include load profile data on commercial customer classes and to prepare programs to ensure we may tailor the bill stabilization plan to embrace such medium sized commercial customers, retroactive to June 1, 2000. SDG&E should also include the same regional load profile data for inland versus coastal commercial customers as we required to assess adjustments to the residential kWh cap. If the data shows a need for adjustments to the commercial cap, we shall make such adjustments retroactive to June 1, 2000.

All revenue shortfalls resulting from these bill caps should be booked to the Transition Cost Balancing Account. In this account, any additional revenues arising from the sale of power by SDG&E's current generation assets, such as SONGs and long-term contracts, during periods of high prices will automatically offset a portion of these revenue shortfalls.

The residential and commercial bill caps shall apply to billing for energy consumed commencing on and after June 1, 2000. In order to implement the bill caps for the period prior to issuance of this Decision, SDG&E shall provide a credit on a future bill issued no later than September 30, 2000. The credit for each customer shall consist of the amount previously billed excess of the bill caps imposed by today's order. The credit shall be provided whether or not the customer has paid the prior bill. Concurrently with providing the bill credit, SDG&E shall credit its TCBA in an equivalent amount. Future adjustments to the bill caps should be handled in this manner.

San Diego should file comments by September 30 proposing a plan to implement a Levelized Payment Plan on a default basis. Such a plan may include a phase-in, if necessary. The plan should also propose procedures and communications strategies to reduce customer confusion. For example, the migration plan could include mail in ballots that would permit the customers to "opt-out" of the LPP, but failure to act would result in enrollment in the LPP. The plan should also identify the financial consequences of this change in billing practices and the costs associated with the modifications to the LPP. Such a plan may use forecasts to set bill levels to ensure that participants do not face sudden bill escalations. Finally, the filing should include projections on bills for residential customers consuming 500 kWh per month and commercial customers consuming 1500 kWh per month.

We note that in any electric utility system, the vast majority of customers consciously conserve power while a few use large amounts. Thus, approximately 70 percent of electricity users consume less than the average level of consumption.³ This pattern holds true for SDG&E, as it does for every California electric utility. In SDG&E's service territory, approximately 70 percent

³ However, as noted previously, we are concerned that use of these average figures for blended coastal and inland regions may not produce a baseline cap that achieves our precise goals.

of all residential customers consume less than 500 kWh per month.⁴ Similarly, approximately 70 percent of small commercial customers consume less than 1500 kWh per month.⁵ This pattern of consumption enables us to design a bill stabilization plan that protects SDG&E's consumers from the gyrations of current energy markets, avoids instituting a rate freeze, and maintains incentives to encourage further energy conservation by those consuming large amounts of electricity. It is a bill stabilization plan accomplished through a tiering mechanism. We also direct SDG&E to work diligently to identify and make special arrangements for consumers with medical needs for increased energy. We will also explore methods to accommodate businesses (e.g. grocery stores) that must maintain power in our investigation.

In addition, we are concerned about the impact of an SDG&E specific bill stabilization plan on retail competition. Therefore, we will consider in our ongoing investigation the appropriateness of extending the bill stabilization plan retroactively to direct access customers.

We take official notice of the recent lowering of the ISO price cap from \$750 to \$250, the U.S. Navy's attempts to bring in generators to add supply for its bases, the grocers' association pact to lower usage and increase access to federal power savings as mitigators of the price spikes we saw in June and July. Therefore, we will continue to investigate before taking radical steps to stabilize bills.

We are particularly concerned that the adoption of a rate freeze at levels not to exceed 110% of frozen electric rates that were in effect as of June 30, 1998

⁴ See SDG&E's 1999 Rate Design Window Filing in A.91-11-024.

⁵ Ibid.

for a two and a half year period, as others have proposed, would harm California. The adoption of such a proposal would lead to average bills in the \$55 range and cause balancing account accumulations of approximately \$1.5 billion, if current market conditions continue. Revenue shortfalls of this magnitude would likely jeopardize SDG&E's ability to purchase power or to build needed transmission infrastructure. These problems would have direct consequences for SDG&E's customers and the California economy.

Although we have adopted a rate stabilization plan that should reduce the shortfalls accumulated in the TCBA, we recognize that shortfalls may occur. In its response to UCAN's emergency petition (filed in this docket on July 6, 2000), SDG&E stated that this Commission is obligated to allow SDG&E to recover the market-based wholesale rates approved by the Federal Energy Regulatory Commission (FERC). We acknowledge the federal filed rate doctrine. In permitting SDG&E to book revenue shortfalls into the TCBA, we will allow these costs to be recovered in a manner that makes SDG&E whole, including carrying costs, subject to Commission review of the prudence of SDG&E's procurement decisions.⁶ Furthermore, we will conduct evidentiary hearings on the cost recovery issue in I.00-08-002. In those hearings, we will also explore the impacts on large industrial customers.

In its comments, SDG&E argues that there are material issues of disputed facts that must be resolved before the alternate can be adopted. The issues SDG&E claims to be material relate to the amortization of the undercollection and the amount that would be undercollected at the end of 2003. This Decision makes no order concerning how the undercollection shall be amortized. Rather,

⁶ See, e.g., *Public Service Co. of New Hampshire v. Patch*, 167 F.3d 29, 35-36 (1st Cir. 1998).

to ensure that SDG&E has an opportunity to be heard on any issues of fact that may be material, we only impose an interim bill cap through the end of December 2001. Based on SDG&E's figures, the amount of the undercollection would be considerably less at the end of December 2001 than at the end of 2003. See SDG&E Comments, Attachment 2.

We will hold hearings to permit SDG&E to raise any issues of material fact relating to the increased undercollection as well as other issues. While we utilize the December 2001 end date, we defer the ultimate decision of the duration of the bill cap pending the outcome of hearings.

We also view the bill caps that we adopt here as facilitating the implementation of a modified LPP. The LPP we envision differs substantially from that available on current tariffs. In particular, modifications may be necessary to take into account the changing market conditions. First, it may need to become available through a procedure that allows customers to readily exercise choice, while those failing to exercise choice will default into the program. Second, it may differ from the current program in that it will use projections of electric rates to avoid shortfalls that leave consumers facing large adjustments at the end of the year. Third, since this program differs in scale and scope from the current program, we recognize that the financial consequences of this program require resolution. Thus, we fully understand that the transition to such a plan will take time.

Previously, SDG&E identified several obstacles concerning rapid expansion of a LPP. We acknowledge that customer confusion may be an issue, but note that this Commission has had excellent experiences in education campaigns in the telecommunications industry concerning the issues of privacy and its relationship to caller id service. The issues involved in a LPP are much

less complex. We have no doubt that SDG&E can develop a campaign that minimizes customer confusion. Second, although SDG&E's surveys indicate that many customers prefer the status quo, we envision that this program will give them the opportunity to opt out of the LPP. By "opt-out," we do not mean to force any customers onto the LPP. A different way of putting this is "changing the default," so that all customers should be given an opportunity to choose whether or not to be on an LPP. Those who do not make a choice would default to the LPP. Third, software and system programs, even if they prevent a flash cut to a LPP, are not intractable, and SDG&E can develop a plan to implement this ordered change. Finally, it is clear to us that such a plan will affect a utility's cash flows, but these can also be addressed.

We therefore order SDG&E to file comments by September 30 proposing a plan to revise LPP, including its true-up mechanism. Such a plan may include a phase-in. The plan should also propose procedures and communications strategies to reduce customer confusion. For example, the migration plan could include mail in ballots that would permit the customers to "opt-out" of the LPP, but failure to act would result in enrollment in the LPP. The plan should also identify the financial consequences of this change in billing practices and the costs associated with the modifications to the LPP. Further SDG&E should propose a method to mitigate potential "true-up" payments caused by forecasting error or price volatility. Finally, the comments should also propose to establish memorandum accounts to track expenses and permit recovery in rates of the costs of this program, including its financial costs.

We note that despite the rebates and discounts we have previously ordered, large businesses will not receive rate reduction bond rebates as they did not receive the associated 10 percent discount nor pay into the Transition

Transfer Accounts. Other small business and residential customers will, for one reason or another, not receive rebates previously ordered. For these customers, the combination of the immediate bill stabilization measures and the LPP offer a good measure of relief. For this reason, we believe that this program offers the most practical way of providing relief from high bills.

We will modify the following findings of fact in D.00-08-021, as follows:

1. UCAN's motion to re-institute the rate freeze for SDG&E for the months of August, September, and October could lead to unintended consequences and higher winter bills; however, we recognize that immediate rate relief is requested now by the Governor.
2. UCAN's proposal should not be examined and evaluated in the context of the OII order we vote upon today.

We will modify D.00.08-021 to add the following findings:

9. A bill stabilization plan can offer stable bills to residential and commercial customers during this period of price volatility.

10. We will hold evidentiary hearings in the context of the OII we order today on recovery of any revenue shortfall that may arise from a bill stabilization plan, but will ensure that SDG&E is made whole, subject to Commission review of the prudence of SDG&E's procurement decisions.

The following findings of fact will be modified in D.00-06-034:

21. We reject PG&E's proposal that it is necessary to cap rates in order to protect residential and small commercial customers from potential price volatility and corresponding rate increases; however, it is reasonable to adopt an interim bill stabilization plan for SDG&E.

22. We did not initiate electric restructuring in order to shield consumers from the market. We agree with Weil and TURN that customers need accurate price signals in order to react and protect themselves against periodic price spikes; however, an interim bill

stabilization plan is required to provide immediate rate relief for ratepayers in SDG&E's service territory.

23. In a workably competitive market, masking prices results in incomplete and inefficient market structure and system demand, and compromises system reliability. Only through accurate price signals can customers understand how their usage impacts the system and make economically efficient choices; however, it is reasonable to implement a bill stabilization plan on an interim basis for SDG&E.

Comments on Alternate Draft Decision

Rule 77.7 of the Commission's Rules of Practice and Procedure provides for public review and comment for draft decisions and alternates subject to Pub. Util. Code § 311(g). Rule 77.7(f) allows the Commission to reduce the period for public review and comment for alternates under various circumstances.⁷ Rule 77.7(f)(9) specifically provides for an exemption:

For a decision where the Commission determines, on the motion of a party or on its own motion, that public necessity requires reduction or waiver of the 30-day period for public review and comment. For

⁷ Public review and comment on alternate decisions may be reduced but not waived, except in an unforeseen emergency situation.

purposes of this subsection, “public necessity” refers to circumstances in which the public interest of the Commission adopting a decision before expiration of the 30-day review and comment period clearly outweighs the public interest in having the full 30-day period for review and comment. “Public necessity” includes, without limitation, circumstances where failure to adopt a decision before expiration of the 30-day review and comment period would place the Commission or a Commission regulatee in violation of applicable law, or where such failure would cause significant harm to public health or welfare. When acting pursuant to this subsection, the Commission will provide such reduced period for public review and comment as is consistent with the public necessity requiring reduction or waiver.

Pursuant to Rule 77.7(f)(9), we determine that public necessity requires a reduced period for public review and comment. This comment period provides notice and opportunity to be heard regarding the modification of these decisions.

Comments on the Draft and Alternate Decisions were filed by SDG&E, UCAN, TURN, California Streetlighting Association (Cal-SLA), Western Manufactured Housing Communities Association (WMA), California Manufacturers and Technology Association (CMTA), California Farm Bureau Federation (Farm Bureau), Alliance for Retail Markets (ARM), City of San Diego (City), Southern California Edison Company (SCE), California Industrial Users (CIU), Shell Energy Services, LLC (Shell), The New Power Company (New Power), and Enron Energy Services, Inc. The Natural Resources Defense Council (NRDC) sent a letter on the drafts. The letter has been placed in the correspondence file. In our modifications to this Decision, we address the comments.

SDG&E opposes adoption of either draft decision and proposes an alternative rate stabilization approach which builds off of the Alternate Decision. SDG&E’s proposal would adopt the Alternate Decision’s approach for a fixed

period of time and then would increase the average bill amount for the remainder of the cap period. SDG&E would also provide for numerous automatic adjustments if undercollections in the balancing account reached certain prespecified levels. SDG&E argues that without such modifications, adoption of either proposed decision would constitute a taking. SDG&E argues that both orders violate due process by setting rates without an evidentiary basis and without providing them with an opportunity to be heard. SDG&E also argues that both orders would violate the requirement that SDG&E collect the full FERC-authorized wholesale rate. SDG&E states that either decision will substantially impact its borrowing requirements and potentially, its cost of capital. SDG&E argues that in this decision, the Commission should authorize it to increase its short term borrowing authority from \$200 million to \$700 million in order to finance any undercollections. SDG&E also argues for a shorter period for a freeze or stabilization plan and against a mandatory level payment plan.

UCAN makes several recommendations and recommends adoption of the Draft Decision of Commissioner Wood despite its reservations about the relief provided. UCAN recommends that the Commission retroactively roll back rates to pre-Summer 2000 rates. Specifically, UCAN recommends rate levels be set at a lower level than either draft decision proposes. UCAN notes that on May 1, 2000 SDG&E's residential rates were approximately 10 cents/kWh with 3.2 cents per kWh of that rate being associated with energy. UCAN recommends that an optional rate cap be made available to all large commercial and industrial customers immediately, rather than waiting to explore the issue in hearings. UCAN also recommends that the Commission clarify that cost recovery associated with wholesale rates will only be allowed to the extent that SDG&E's

procurement actions are found prudent. UCAN opposes an “opt-out” level payment plan and supports a rate cap in its place.

TURN recommends “[i]n order to provide real relief to ratepayers in San Diego, the Commission should act immediately to establish a retroactive rate cap at June 1999 levels for all customer classes, adopt a third-tier rate during the summer months in order to revitalize the baseline program, declare the Commission’s intent to hold consumers harmless for elevated wholesale prices, establish a memorandum account for tracking uncollected power purchase costs, and direct SDG&E to allow customers to participate in a properly structured levelized payment plan on an *opt-in* basis.” (TURN comments, p. 1.) TURN criticizes portions of both draft decisions that are not consistent with its stated recommendations. TURN argues that the Commission should guarantee that ratepayers, not SDG&E, will be “made whole” and spends some time discussing its contention that the filed-rate doctrine does not obligate the Commission to allow SDG&E to recover all costs associated with its wholesale power purchases. Like UCAN, TURN opposes an “opt-out” level payment plan.

Cal-SLA supports UCAN’s comments with the exception of its comments about the level payment plan. Cal-SLA seeks to clarify that both orders provide relief to traffic control and streetlighting customers.

WMA is concerned that adoption of an opt-out level payment plan will be binding on master-metered customers. WMA believes that such a plan will be difficult to implement for master-meter customers and will fall to the management of manufactured housing communities to create levelized bills without adequate resources (e.g. credit lines) to do so.

CMTA supports allowing larger customers to opt-in to a rate stabilization program rather than limiting such a program to residential and small

commercial customers. CMTA also argues that customers who do not remain bundled customers, and thus do not have SDG&E procuring energy for them, not be responsible for any undercollections associated with wholesale procurement costs. Like UCAN, CMTA would limit recovery of wholesale costs to those found to be prudently incurred. CMTA would limit any rate freeze adopted to March 31, 2002, the statutory maximum period for SCE and PG&E. CMTA does not support mandatory imposition of a level payment plan on customers. With these clarifications, CMTA generally prefers the Alternate Decision to the Draft Decision.

Farm Bureau supports the expansion of the option of a level payment plan to all customer classes and thus prefers the Alternate Decision to the Draft Decision. Farm Bureau does not support requiring customers to opt-out of the level payment plan, rather, it would retain the requirement that customers affirmatively select the option of level payment.

ARM stresses that if either of the draft orders is adopted, direct access customers should be afforded the same ratemaking treatment when prices exceed the capped rates as currently in effect in PG&E and SCE service territories under frozen rate. ARM supports limiting the relief proposed in the orders to customers legislatively defined as residential and small commercial customers. ARM argues that in no event should customers larger than 50 kW be eligible for a rate cap or rate stabilization mechanism in order to ensure that incentives for demand responsiveness remain high. ARM supports limiting the term of any rate cap to no longer than December 31, 2001. Like many parties, ARM opposes an opt-out level payment plan. Shell supports ARM's comments.

Like UCAN, City supports retroactive relief for high prices in San Diego. City recommends that the ending date for the rate freeze in the Draft Decision

occur after the end of the winter heating season and would adjust the ending date to March 31, 2004. City points out that the San Diego region has widely varying climates that have very different baseline quantities and that the Alternate Decision's rate cap at 500kWh per month does not take these variations into account. City believes the level payment plan should be expanded, but does not support the opt-out requirement. City also urges expansion of rate relief to large customers, particularly governmental agencies, schools, and hospitals. City also recommends that the Commission explicitly order an examination of the prudence of SDG&E's throughout the summer and until rate relief is adopted.

SCE argues that any measures adopted by the Commission should be interim in nature and limited in duration. SCE supports using I.00-08-002 to consider the long-term impact of interim and other relief proposals. SCE recommends increasing the 110 % cap proposed in the Draft Decision and further discussion about how the percentage was selected. SCE suggests considering expanding relief to medium sized customers. SCE recommends adoption of more specific ratemaking mechanisms to ensure SDG&E is made whole for its purchases on behalf of bundled customers. SCE points out that there can be several interpretations of the Alternate Decision's rate stabilization plan and identifies implementation difficulties using SCE tariffs as an example. SCE believes that if the Alternate Decision intended to cap rates, rather than bills, administration of such a plan would prove extremely complex. SCE also argues that establishing a level payment opt-out plan is premature.

CIU believes that both proposed orders go far beyond the pressing issue of rate relief without stakeholder input and states its concern over this prospect. CIU prefers the conceptual framework of the Draft Decision if it is modified to impose a cap for all customer classes, terminate the cap on March 31, 2002, retain

traditional cost allocation policies for cost recovery, and leave open review of SDG&E's procurement practices to I.00-08-002.

New Power opposes adoption of an opt-out level payment plan. New Power also raises concerns about the duration of the so-called emergency actions being taken in these proposed orders and the impact of such orders on the development of a competitive retail market. New Power does not see that there are changed circumstances since August 3, 2000 when the Commission rejected rate caps. If the Commission does adopt additional measures to address the situation in San Diego, New Power prefers a variant to the Alternate Decision with lower consumption thresholds to promote conservation.

NRDC does not take a position regarding a rate freeze versus a rate stabilization plan but believes that actions taken in these orders may affect incentives for energy efficiency and conservation. As such, NRDC supports the tiered rate approach taken by the Alternate Decision should a rate cap or freeze be instituted.

Findings of Fact

1. Ratepayers in SDG&E's service territory should be shielded from the unreasonably high wholesale electric costs for an interim period.
2. While the Commission did not initiate electric restructuring in order to shield consumers from the market, we must consider the impact of high-energy prices on consumers.
3. We recognize that, in a workably competitive market, masking prices results in incomplete and inefficient market structure and system demand, and compromises system reliability. It is reasonable to implement an interim bill stabilization plan to manage the bills of residential and commercial customers because wholesale electric markets are not workably competitive at this time.

4. Residential and commercial bill caps should be ordered to apply to billing for energy consumed commencing on or after June 1, 2000. In order to implement the bill caps for the period prior to issuance of this Decision, SDG&E should provide a credit on future bills issued no later than September 30, 2000. The credit for each such customer should consist of the amount previously billed in excess of the bill caps imposed by today's order. The credit should be provided whether or not the customer has paid the prior bill. Concurrently with providing the bill credit, SDG&E should credit its TCBA in an equivalent amount.

Conclusions of Law

1. It is reasonable to modify D.00-06-034 to require the implementation of a bill stabilization program for SDG&E's residential and small commercial customers for an interim period.

2. The Commission should consider further adjustments to the program, retroactive to June 1, 2000, to ensure the caps fairly and equitably treat medium-sized commercial customers, and allow for differences in geographic climate zones. Implementation of the residential bill cap program should be in prorated manner so that low-income users of lesser amounts of energy also obtain the benefits of capped prices.

3. Pursuant to Rule 77.7(f)(9), we determine that public necessity requires a reduced period for public review and comment. The comment period provides notice and opportunity to be heard.

4. The bill cap provisions of this order should be effective June 1, 2000 to mitigate the bill shock experienced by SDG&E customers. In other respects this order should be effective today, so that these requirements may be implemented expeditiously.

5. The Commission should further study the bill stabilization plan as to direct access customers.

O R D E R

IT IS ORDERED that:

1. Decision (D.) 00-08-021 is modified to order San Diego Gas & Electric Company (SDG&E) to implement a bill stabilization plan described herein for its residential and small commercial customers.

2. D.00-08-021 is further modified to order SDG&E to file comments by September 30 proposing a plan to transition all customers to levelized payment plan as described herein.

3. SDG&E shall file a petition to modify the usage caps and applicability of the plan to medium-sized commercial customers.

4. The following findings of fact in Decision (D.) 00-08-021 shall be modified:

1. UCAN's motion to re-institute the rate freeze for SDG&E for the months of August, September, and October could lead to unintended consequences and higher winter bills; however, we recognize that immediate bill relief is requested now by the Governor.

2. UCAN's proposal should not be examined and evaluated in the context of the OII order we vote upon today.

5. D.00-08-021 is modified to add the following two findings of fact:

9. A bill stabilization plan can offer stable bills to residential and commercial customers during this period of price volatility.

10. We will hold evidentiary hearings in the context of the OII we order today on recovery of any revenue shortfall that may arise from a bill stabilization plan, but will ensure that SDG&E is made whole.

subject to Commission review of the prudence of SDG&E's procurement decisions.

6. D.00-06-034 is modified to require San Diego Gas & Electric Company (SDG&E) to cap rates for its residential, small commercial, and lighting customers on an interim basis. The following findings of fact shall be modified and now read as follows:

21. We reject PG&E's proposal that it is necessary to cap rates in order to protect residential and small commercial customers from potential price volatility and corresponding rate increases, however, it is reasonable to adopt an interim bill stabilization plan for SDG&E.

22. We did not initiate electric restructuring in order to shield consumers from the market. We agree with Weil and TURN that customers need accurate price signals in order to react and protect themselves against periodic price spikes, however, an interim bill stabilization plan is required to provide immediate rate relief for ratepayers in SDG&E's service territory.

23. In a workably competitive market, we recognize that masking prices results in incomplete and inefficient market structure and system demand, and compromises system reliability. Only through accurate price signals can customers understand how their usage impacts the system and make economically efficient choices; however, it is reasonable to implement a bill stabilization plan on an interim basis for SDG&E.

7. Within five days of the effective date of this decision, SDG&E shall file an advice letter to implement the interim rate stabilization plan in compliance with this decision and to book revenue shortfalls into the TCBA for future recovery of the net shortfall. The advice letter shall be effective on filing subject to Energy Division determining that it is in compliance with this Order.

8. By September 30, 2000, SDG&E shall file comments addressing the implementation of a plan for a transition of all customers to a Levelized Payment Plan as described herein.

9. Residential and commercial bill caps should be ordered to apply to billing for energy consumed commencing on or after June 1, 2000. In order to implement the bill caps for the period prior to issuance of this Decision, SDG&E should provide a credit on future bills issued no later than September 30, 2000. The credit for each such customer shall consist of the amount previously billed in excess of the bill caps imposed by today's order. The credit shall be provided whether or not the customer has paid the prior bill. Concurrently with providing the bill credit, SDG&E shall credit its TCBA in an equivalent amount.

This order is effective today.

Dated August 21, 2000, at San Francisco, California.

HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners

We will file a dissent.

/s/ CARL W. WOOD
Commissioner

/s/ LORETTA M. LYNCH
President